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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,834	08/31/2001	Anthony V. Ferreri	YOR920010435US1	2826
29154	7590	08/31/2006	EXAMINER	
FREDERICK W. GIBB, III GIBB INTELLECTUAL PROPERTY LAW FIRM, LLC 2568-A RIVA ROAD SUITE 304 ANNAPOLIS, MD 21401			SHEIKH, ASFAND M	
		ART UNIT		PAPER NUMBER
		3627		
DATE MAILED: 08/31/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/943,834	FERRERI ET AL.	
	Examiner Asfand M. Sheikh	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 20 July 2006.  
 2a) This action is FINAL. 2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) \_\_\_\_\_ is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 8/31/01.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

In responsive to the Remarks/Arguments filed 20 July 2006:  
claims 1-25 are pending in the present application.

The Examiner withdraws the U.S.C. 102(e) rejection from the previous office action.

The Examiner establishes new grounds of rejection.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-25 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 1-25 recites the limitation "said devices" in the respective independent claims. There is insufficient antecedent basis for this limitation in the claim.

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4. Claims 7, 12, 13, and 25 recites the limitation "said forecasting" in the respective claims. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 4, 11, 16 and 22 are rejected under 35 U.S.C. 101 because the claims fail to produce a tangible result.

As per claims 4, 11, 16 and 22, In order for claimed subject matter to be considered patent eligible under 35 U.S.C. 101 it must contain a tangible result. The focus of this determination is on the result of the claim as a whole, not the individual steps or structure used to produce the result. Further to be tangible the process claim must set forth a practical application thereby producing a real-world result. It is the position of the Examiner further comprising identifying substitute components does not provide a tangible result if this step occurs after providing total volume of assembly. However the Examiner further notes that if the step of further comprising identifying substitute components does not provide a

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tangible result if this step inherently occurs before providing total volume of assembly this 101 rejection would be moot. The Examiner will interpret the limitation of further comprising identifying substitute components does not provide a tangible result if this step to occur after providing total volume of assembly, therefore the claims are found to be directed towards subject matter, which is not patent eligible under 35 U.S.C. 101.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 3, 5, 6, 8, 10, 19, 21, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada United States Patent 5,796,614 in view of Costanza United States Patent 6,594,535.

**As per claim 1 and 19,** Yamada discloses determining production quantities of said devices planned to be manufactured (col. 3, lines 8-14 and col. 4, lines 16-23 and lines 28-34; Examiner interprets "processing time required for retrieval of component parts and for calculation of a due date and start date of an order... constructing a bill of material including... units of measure, quantities on hand..." to be determining production quantities of said devices planned to be manufactured); exploding each of said devices into first level components to generate required first level component values, wherein said first level components include assemblies (col. 3, lines 12-45; FIG 5; Examiner interprets "low level code =2" to be first level components required to generate first level component, which include assemblies); exploding each of said assemblies into assembly components to generate required assembly component volumes for each assembly (col. 3, lines 12-45; FIG 5; Examiner interprets "low level code =3" to be assembly components to generate required assembly level component volumes).

However Yamada fails to explicitly disclose multiplying said first level component volumes for each device by a corresponding production quantity of said production quantities to determine a total volume of first level components required, wherein said total volume of first level components includes

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assembly volumes; multiplying said assembly component volumes for each assembly by a corresponding assembly volume of said assembly volumes to determine a total volume of assembly components required; and providing said total volume of assembly components required to assembly component manufactures.

However Costanza discloses multiplying component values for an object to determine a total volume of components required (col. 21, lines 17-19; Equation 6; Examiner interprets "equation 6" to be the computation of component quantity which would include all levels of components (e.g. first, assembly... etc)); and providing said total volume of assembly components required to assembly component manufactures (col. 21, lines 25-28; Examiner interprets "non-replenishable signals can be used... to prompt procurement of the component material from supplier" to be providing volume of any components required).

It would have been obvious to one skilled in the art at the time the invention was made to modify the teachings of Yamada to include multiplying component values for an object to determine a total volume of components required and providing said total volume of assembly components required to assembly component manufactures as taught by Costanza. One of ordinary skill in the art would have been motivated to combine the teachings in order to maintain accuracy of the components in order to build

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and replenish material in a timely manner (col. 21, lines 36-56).

**As per claim 3 and 21,** Yamada discloses wherein said devices share one or more of said components and said assemblies share one or more of said assembly components (FIG. 5).

**As per claim 5 and 23,** Yamada fails to explicitly disclose wherein some of said components comprise critical components.

However Costanza discloses wherein some of said components comprise critical components (col. 21, lines 5-16; Examiner interprets "non-replenishable components" to be critical components).

It would have been obvious to one skilled in the art at the time the invention was made to modify the teachings of Yamada to include wherein some of said components comprise critical components as taught by Costanza. The motivation to combine is the same as claim 1, above.

**As per claim 6 and 24,** Yamada fails to explicitly disclose wherein said critical components comprise components having a level of supply insufficient to meet demand and having no available substitute component.

However Costanza discloses wherein said critical components comprise components having a level of supply insufficient to

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meet demand and having no available substitute component (col. 21, lines 5-16 and col. 21, lines 25-28; Examiner interprets "non-replenishable components" to be critical components. Examiner interprets "non-replenishable signals can be used... to prompt procurement of the component material from supplier" to be providing volume of no available components required).

It would have been obvious to one skilled in the art at the time the invention was made to modify the teachings of Yamada to include wherein said critical components comprise components having a level of supply insufficient to meet demand and having no available substitute component as taught by Costanza. The motivation to combine is the same as claim 1, above.

**As per claim 8,** The Examiner notes the limitations of claim 8, are substantially similar to those of claim 1 and claim 6 and thus is rejected under similar grounds and motivation.

**As per claim 10,** The Examiner notes the limitations of claim 10, are substantially similar to those of claim 1 and claim 3 and thus is rejected under similar grounds.

8. Claims 2, 7, 9, 12, 13, 14, 15, 17, 18, 20, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over

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Yamada United States Patent 5,796,614 in view of Costanza United States Patent 6,594,535 as applied to claim 1 above, and further in view of Kawashima et al. United States Patent 5,168,445 (hereinafter Kawashima).

**As per claim 2 and 20,** Yamada and Costanza both fail to explicitly disclose wherein said process of determining a production quantity comprises forecasting sales volumes for each of said devices.

However Kawashima discloses wherein said process of determining a production quantity comprises forecasting sales volumes for each of said devices (col. 1, lines 43-61 and col. 2, lines 27-53).

It would have been obvious to one skilled in the art at the time the invention was made to modify the teachings of Yamada and Costanza to include wherein said process of determining a production quantity comprises forecasting sales volumes for each of said devices as taught by Kawashima. One of ordinary skill in the art would have been motivated to combine the teachings in order to maintain adequate supply of goods when the demand of said goods changes frequently and avoid keeping excess supply when demand is low (col. 1, lines 26-32).

**As per claim 7 and 25,** Yamada and Costanza both fail to explicitly disclose wherein said forecasting is performed using a minimum profile technique that removes all ordering parameters including order minimums, order maximums, leadtimes, transit times, and order sizing.

However Kawashima discloses wherein said forecasting is performed using a minimum profile technique that removes all ordering parameters including order minimums, order maximums, leadtimes, transit times, and order sizing (col. 1, lines 43-61 and col. 2, lines 27-53; Examiner interprets "forecast or predict the volume of sales occurring before lead time..." to be forecasting performed by a minimum profile technique).

It would have been obvious to one skilled in the art at the time the invention was made to modify the teachings of Yamada and Costanza to include wherein said forecasting is performed using a minimum profile technique that removes all ordering parameters including order minimums, order maximums, leadtimes, transit times, and order sizing as taught by Kawashima. The motivation is the same as claim 2, above.

**As per claims 9,** The Examiner notes the limitations of claim 9, are substantially similar to those of claim 2 and thus are rejected under similar grounds and motivation.

**As per claims 12,** The Examiner notes the limitations of claim 12, are substantially similar to those of claim 7 and thus are rejected under similar grounds and motivation.

**As per claim 13,** The Examiner notes the limitations of claim 13, are substantially similar to those of claim 1 and claim 7 and thus are rejected similar grounds and motivation.

**As per claims 14,** The Examiner notes the limitations of claim 14, are substantially similar to those of claim 2 a thus is rejected under similar grounds and motivation.

**As per claims 15,** The Examiner notes the limitations of claim 15, are substantially similar to those of claim 3 a thus is rejected under similar grounds and motivation.

**As per claims 17,** The Examiner notes the limitations of claim 17, are substantially similar to those of claim 5 a thus is rejected under similar grounds and motivation.

**As per claims 18,** The Examiner notes the limitations of claim 18, are substantially similar to those of claim 6 a thus is rejected under similar grounds and motivation.

9. Claims 4, 11, 16, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada United States Patent 5,796,614 in view of Costanza United States Patent 6,594,535 as applied to claim 1 above, and further in view of Horne United States Patent 7,058,587.

**As per claim 4 and 22,** Yamada and Costanza both fail to explicitly disclose further comprising identifying substitute components.

However Horne discloses further comprising identifying substitute components (col. 11, lines 38-63).

It would have been obvious to one skilled in the art at the time the invention was made to modify the teachings of Yamada and Costanza to include further comprising identifying substitute components as taught by Horne. One of ordinary skill in the art would have been motivated to combine the teachings in order to avoid rescheduling an order and so that orders can be finished within a scheduled lead time (col. 11, lines 38-41).

**As per claim 11,** The Examiner notes the limitations of claim 11, are substantially similar to those of claim 1 and claim 4 and thus is rejected under similar grounds and motivation.

**As per claim 16,** The Examiner notes the limitations of claim 16, are substantially similar to those of claim 1 and claim 4 and thus is rejected under similar grounds and motivation.

***Response to Arguments***

10. Applicant's arguments, see pages 9-13 of applicants arguments, filed 20 July 2006, with respect to the rejection(s) of claim(s) 1-25 under U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Yamada, Costanza, Kawashima, and Horne.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M.

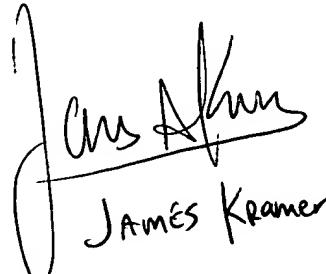
Sheikh whose telephone number is (571) 272-1466. The examiner can normally be reached on M-F 8a-4:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call (800) 786-9199 (IN USA OR CANADA) or (571) 272-1000.

Asfand M Sheikh  
Examiner  
Art Unit 3627

ams  
25 August 2006

 8/28/06  
JAMES KRAMER